

FIRST REGULAR SESSION

# SENATE BILL NO. 417

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHAPPELLE-NADAL.

Read 1st time February 9, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2057S.011

## AN ACT

To repeal section 563.046 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 563.046 as enacted by senate bill no. 60, seventy-ninth general assembly, first regular session, and to enact in lieu thereof one new section relating to the defense of justified use of force under the Missouri criminal code.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 563.046 as enacted by senate bill no. 491, ninety-  
2 seventh general assembly, second regular session, and section 563.046 as enacted  
3 by senate bill no. 60, seventy-ninth general assembly, first regular session, are  
4 repealed and one new section enacted in lieu thereof, to be known as section  
5 563.046, to read as follows:

563.046. 1. A law enforcement officer need not retreat or desist from  
2 efforts to effect the arrest, or from efforts to prevent the escape from custody, of  
3 a person he or she reasonably believes to have committed an offense because of  
4 resistance or threatened resistance of the arrestee. In addition to the use of  
5 physical force authorized under other sections of this chapter, a law enforcement  
6 officer is, subject to the provisions of subsections 2 and 3, justified in the use of  
7 such physical force as he or she reasonably believes is immediately necessary to  
8 effect the arrest or to prevent the escape from custody.

9 2. The use of any physical force in making an arrest is not justified under  
10 this section unless the arrest is lawful or the law enforcement officer reasonably  
11 believes the arrest is lawful.

12 3. A law enforcement officer in effecting an arrest or in preventing an  
13 escape from custody is justified in using deadly force only:

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

14 (1) When deadly force is authorized under other sections of this chapter;  
15 or

16 (2) When [he or she reasonably believes that such use of deadly force is  
17 immediately necessary to effect the arrest and also] **the officer** reasonably  
18 believes that the person to be arrested[:

19 (a) Has committed or attempted to commit a felony; or

20 (b) Is attempting to escape by use of a deadly weapon; or

21 (c) May otherwise endanger life or inflict serious physical injury unless  
22 arrested without delay] **poses a clear danger to the officer or any other**  
23 **person.**

24 4. The defendant shall have the burden of injecting the issue of  
25 justification under this section.

26 **5. Whenever a law enforcement officer uses deadly force upon**  
27 **another person or inflicts an injury upon a person via a firearm, the**  
28 **attorney general shall appoint a special prosecutor to investigate the**  
29 **incident, who shall have power and authority to file a criminal**  
30 **complaint, information, or affidavit against the officer.**

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Unofficial ✓

Bill

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